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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jack David Hammond

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EXAMINER

JABR, FADEY S

ART UNIT

PAPER NUMBER

3628

MAIL DATE

DELIVERY MODE

07/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/807,608	Applicant(s) HAMMOND ET AL.	
	Examiner Fadey S. Jabr	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

Claims **36-39** remain pending in the application and are again presented for examination.

Response to Arguments

1. Applicant's arguments filed 18 May 2007 have been fully considered but they are not persuasive.
2. Examiner notes that applicant recites two-tier pricing, but in actuality the applicant's invention has more than two tiers. For instance, the applicant's "first" tier is a fixed rate, while the "second" tier is in fact a multi-tier pricing system in itself. The "second" tier increases as time increases, therefore the tiers are proportional to the amount of time a user spends parking. For example, once a user enters the second tier they will be charged a different price (i.e. tier) depending on the amount of time the user spends parking in the space, therefore having a plurality of tiers. Applicant argues that Okajima does not disclose that the second tier in the reference is a variable rate. However, Examiner notes that the applicant's invention and Okajima are in reality the same invention. Okajima teaches a penalty charge that is 2 to 3 times higher than the regular rate. Therefore, Okajima's second tier is also proportional to time just like the applicant's invention. For example, Okajima teaches a coefficient which is 2 to 3 times higher than the regular rate which is multiplied times the regular rate, therefore if the regular rate for 1 hour is 5 dollars then the penalty charge will be 10 to 15 dollars, and if the regular rate for 2 hours is 7 dollars then the penalty charge will be 14 to 21 dollars. Therefore, Okajima teaches an increasingly higher variable price per time that is a penalty.

3. Examiner also notes that the applicant's level of punitiveness is a design choice. Any reference that teaches multi-tier pricing that is used to penalize parkers who overstay their limit would read on the applicant's invention. For example, whether the "second" tier increases by 10 cents or 10 dollars, the level of punitiveness does not distinguish the applicant's invention from the prior art, it is merely a design choice for an amount of punitiveness.
4. Examiner also notes that Okajima and the applicant are both concerned with the same problem of parkers who overstay their limit. Applicant similar to Okajima uses a penalty to curb parkers from overstaying their parking limit, which is a disincentive for parking beyond a predetermined time (i.e. penalty charge).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims **36-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amirpanahi, U.S. Patent No. 5,648,906 in view of Okajima, JP Patent No. 402093781 A.

As per **Claims 36 and 38**, Amirpanahi discloses a system and method comprising:

- a sensor to sense usage of the parking space by a vehicle (C. 13, lines 4-60, abstract, lines 22-24);

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- a processor coupled to the sensor, the processor being programmed to:
 - determine an elapsed usage time of the vehicle based on the sensed usage (C. 5, lines 22-25, C. 13, lines 4-60);
 - calculate a usage fee based on the elapsed usage time (C. 13, lines 45-49);
- accept payment of the usage fee or information therefor (C. 11, lines 43-60, C. 12, lines 49-59).

Amirpanahi fails to disclose a two-tier pricing that charges a fixed price per time up to a predetermined usage time and thereafter charges an increasingly higher variable price per time that is a disincentive to usage of the parking space beyond the predetermined usage time.

However, Okajima teaches a short-term use fee-calculating means which calculates a penalty charge that is higher than the general fee when the parking garage-leaving time exceeds a predetermined regulated time for the short-term parking (pp. 5). Further, Okajima teaches setting the parking fee for short-term parking at no cost or a low fee for short-term dedicated use, but prevent parking for more than a regulated time by collecting a penalty charge fairly higher (about 2 to 3 times) than that of the general parking fee when leaving the parking garage past a predetermined regulated time (e.g. about 30 minutes) to enable enhancement of the parking efficiency (pp. 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method and system of Amirpanahi and include a fee structure that penalizes parking space users who surpass a predetermined time period as taught by Okajima, because it enables enhancement of the parking efficiency.

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As per Claims 37 and 39, Amirpanahi discloses wherein usage of the parking space is manageable by selectively varying the predetermined usage time and the fixed price per time (C. 14, lines 3-19, C. 15, lines 6-19). Amirpanahi fails to disclose varying the increasingly higher variable price per time. However, Okajima teaches a short-term parking regulated time (e.g. about 30 minutes), where 30 minutes is used an example; therefore any time unit can be used (pp. 3, 5). Further, Okajima teaches a penalty charge fairly higher (2 to 3 times) that that of the general parking fee, where the penalty fee can vary from 2 to 3 times the general parking fee (pp. 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method and system of Amirpanahi and include being able to vary the penalty for surpassing a predetermined time period as taught by Okajima, because it enables enhancement of the parking efficiency.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadey S. Jabr whose telephone number is (571) 272-1516. The examiner can normally be reached on Mon. - Fri. 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fadey S Jabr
Examiner
Art Unit 3628

FSJ

Please address mail to be delivered by the United States Postal Service (USPS) as follows:


Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-1516 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER